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10/033,019	12/27/2001	Chen Wei	2470-PAT	7837

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EXAMINER

SHAKERI, HADI

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

### Office Action Summary

**Application No.**

10/033,019

**Applicant(s)**

WEI, CHEN

**Examiner**

Hadi Shakeri

**Art Unit**

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-7,9,16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-7,9,16 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.84(i). Lines, numbers and letters are not uniformly thick and well defined, clean and durable, and black (poor line quality), Figs. s 1-3.
2. The drawings are objected to because reference character (18) in Fig. 1 appears to point to the thumb grip. Further please note that formal drawing (should allowable subject matter be indicated) for the drawing correction submitted on 20 June 2003 should show the circles to have the different centers per specification as originally filed.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

3. Claims 1, 2, 5-7, 9, 16 and 17 are objected to because of the following informalities: "An automatically adjusting self tightening wrench" is improper; it may be replaced with, -- A self-

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adjusting tightening wrench--. Applicant may also wish to delete "said thumb", line three of the last paragraph in claim 1.

It is also noted that claim 2 fails to positively recite any elements or structure, the recitation that the faces are shaped to...would be met shape in prior art lacking structures to define the shape, Applicant may wish to amend by reciting what is disclosed by original specification as filed, e.g., --The self-adjusting pliers of claim 1, wherein a gnarled surface is provided on both said planar face and said curved handle face.

It appears in claim 9, "said jaw member may translate" should recite, --said jaw member rotationally translate--, as in claims 6 and 7.

Regarding claims 16 and 17, last paragraph, is already recited in the parent claim 1, and should be deleted.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 2, 5-7, 9, 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Regarding claim 1, the word "means" is preceded by the word(s) "thumb depressed" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

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Applicant may wish to amend by reciting, --...means to bias said planar face of said jaw member toward said handle face; a thumb grip defined by a flat surface area formed on said jaw member strut adjacent to said elbow; said planar face...--

7. Claim 1 recites the limitation "said circular path" in line 18. There is insufficient antecedent basis for this limitation in the claim.

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 1, 2, 5-7, 9, 16 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. "substantially flat thumb engageable surface" as recited in the amended claim 1 lacks sufficient antecedent basis in the specification as originally filed. The thumb grip area as disclosed on pages 5 (last paragraph) and page 12, defines an area surfaced with teeth or other frictional engagement style surfacing. Applicant is requested to point out the support for "flat" surface.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

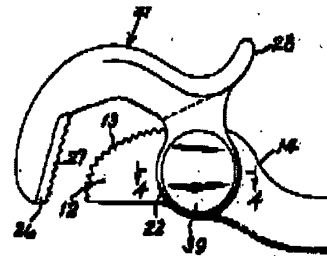
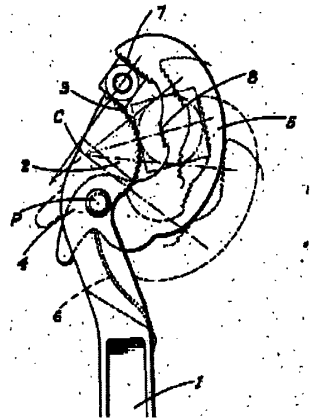
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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11. Claims 1, 2, 5-7, 9, 16 and 17 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Mead, US Patent No. 2,028,406 in view of Haberle (2,742,808).

Mead meets all the limitations of claim 1, in Figs. 1 and 2, i.e., a handle (1) having a working end (2) and a gripping end (lower portion), a jaw member (5) rotationally attached to the handle at a fixed point (P), said working end having a continuously curved handle face (3) making a smooth arc centered about (C) adjacent to pivot point, jaw member having a planar surface (7), biasing means (6) to bias the planar face toward the handle face, the planar face following a generally circular path around the pin with a maximum distance from the curved handle face when the jaw is rotated from a first point at a minimum distance, including a surface formed adjacent to the elbow (mid-point between the jaw member) to overcome the bias of the spring (functionally inherent), except for the shape of the tool as recited by the claim, i.e., two struts meeting at an elbow. It is noted that, although, changing shape may be considered obvious to one having ordinary skill in the art at the time dependent on work-piece and/or operational parameters, e.g., cost of manufacturing, lacking any reasons that two pieces meeting at an elbow solves any stated problem or is for any particular purpose and since it appears that the invention would perform equally well with round exterior surface, for the key feature of the invention as originally disclosed, i.e., the planar gripping surface following a second circular path around the curve handle face, which is defined by a substantially smooth arc, is met by Mead, Haberle is cited.

Haberle discloses wrench wherein the outer engaging jaw member is formed by a strut between the fixed pivot point



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and an elbow and a second member, which is in an angled engagement with the first. The elbow defining a thumb trigger (28).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the invention of Mead with the thumb trigger as taught by Haberle for ease of operation.

Regarding claims 2, 5-7, 9, 16 and 17, Mead as modified by Haberle meets the limitations.

#### ***Response to Arguments***

12. Applicant's arguments with respect to the claims 1, 2, 5-7, 9, 16 and 17 have been considered but are moot in view of the new ground(s) of rejection.

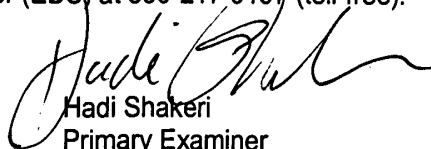
#### ***Conclusion***

13. Prior art made of record and not relied upon are considered pertinent to applicant's disclosure. Mead is cited to show related invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hadi Shakeri whose telephone number is (571) 272-4495. The examiner can normally be reached on Monday-Thursday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hadi Shakeri  
Primary Examiner  
Art Unit 3723  
December 9, 2004